

Raymond S. Miller, Esq.
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Dear Mr. Miller:

Thank you for your letter of May 17, 1974, asking several questions about 49 CFR ?195.210(b) in relation to land development near a pipeline operated by the Getty Pipe Company in Piscataway Township, New Jersey. This rule requires that a pipeline have at least 12 inches of cover in addition to that prescribed in ?195.248 when it is located within 50 feet of certain populated places.

As stated in ?195.200, the rule applies to construction of new steel pipeline systems and to relocating, replacing, or otherwise changing existing steel pipeline systems. (New pipelines are those constructed after March 31, 1970.) In correspondence with the Getty Pipe Company on this matter (copy enclosed), ?195.210(b) is interpreted to apply if a carrier changes the location of its existing pipeline relative to adjacent structures by acting to permit construction of a private dwelling within 50 feet of the pipeline. However, where construction within 50 feet of a pipeline is outside of a carriers control, the construction does not change the pipeline within the meaning of ?195.200 and ?195.210(b) is not applicable.

You ask if a private builder could be required to comply with the requirement. Section ?195.210(b), as well as the other rules in 49 CFR Part 195, is binding only on carriers engaged in interstate or foreign commerce by pipeline transportation of hazardous liquids. The rules do not govern the activities of private builders. The rights of a carrier respecting the use of land near its pipeline are a matter of agreement between the parties concerned or local law, and are not regulated by 49 CFR Part 195.

The "cover" required in ?195.210(b) and ?195.248 may be any material that will protect the buried pipeline as required elsewhere in the regulations.

The amount of cover required by ?195.210(b) is 12 inches more than that required by ?195.248. The 24-inch amount to which you refer was considered in developing the final rule, but, as noted in a preambulatory statement when Part 195 was published, the 24-inch amount was changed to 12 inches.

We trust this adequately responds to your inquiry.

Sincerely,

/signed/

Joseph C. Caldwell, Director
Office of Pipeline Safety